

File No. 100914

Committee Item No. 2

Board Item No. 27

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: City Operations & Neighborhood Ser. Date: August 9, 2010

Board of Supervisors Meeting

Date Aug 10, 2010

#### Cmte Board

- |                                     |                                     |  |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/>            | Motion                                       |
| <input type="checkbox"/>            | <input checked="" type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Budget Analyst Report                        |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Ethics Form 126                              |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form (for hearings)             |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Application                                  |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Public Correspondence                        |

#### OTHER

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| <input type="checkbox"/> | <input type="checkbox"/> | _____ |

Completed by: Victor Young

Date August 5, 2010

Completed by: Victor Young

Date 8-9-10

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.



1 [Liquor License, 690 Stanyan Street]

2  
3 **Resolution determining that the transfer of a Type 20 Off-Sale Beer and Wine**  
4 **Liquor License from 880 Harrison Street to 690 Stanyan Street (District 5) to**  
5 **Joseph N. Rogoff for Whole Foods Market California Inc., dba Whole Foods**  
6 **Market will serve the public convenience or necessity of the people of the City**  
7 **and County of San Francisco, in accordance with Section 23958.4 of the**  
8 **California Business and Professions Code, with conditions.**

9  
10 WHEREAS, Joseph N. Rogoff is seeking transfer of a Type 20 Off-Sale Beer and  
11 Wine Liquor License for Whole Foods Market California Inc., dba Whole Foods Market,  
12 located at 690 Stanyan Street; and,

13 WHEREAS, The City Planning Department has verified that the area is properly  
14 zoned, with conditions; and,

15 WHEREAS, The Police Department recommends that the liquor license  
16 application be approved with conditions; now, therefore, be it

17 RESOLVED, That in accordance with Section 23958.4 of the California Business  
18 and Professions Code, the Board of Supervisors of the City and County of San  
19 Francisco hereby determines for the foregoing reasons that the transfer of a Type 20  
20 Off-Sale Beer and Wine Liquor License from 880 Harrison Street to 690 Stanyan Street  
21 for Joseph N. Rogoff for Whole Foods Market California Inc., dba Whole Foods Market,  
22 will serve the public convenience or necessity of the people of the City and County of  
23 San Francisco.

24 Planning Department Conditions: Alcohol Beverage Control license is permitted  
25 in conjunction with the proposed grocery store use per conditional use authorization

1 under Case No. 2009.1103C (Motion No. 18024) and subject to Sections 790.55(a), (b),  
2 and (c).

3 Police Department Conditions: 1) Sale, service, and consumption of alcoholic  
4 beverages shall be permitted only between the hours of 8:00 a.m. and 10:00 p.m. each  
5 day of the week; 2) The petitioners shall be responsible for maintaining free of litter the  
6 area adjacent to the premises over which they have control; 3) The exterior of the  
7 premises shall be equipped with lighting of sufficient power to illuminate and make  
8 easily discernible the appearance and conduct of all persons on or about the premises.  
9 Additionally, the position of such lighting shall not disturb the normal privacy and use of  
10 any neighboring residences; 4) Graffiti shall be removed from the premises and all  
11 parking lots under the control of the licensee within 72 hours of application. If the graffiti  
12 occurs on a Friday or weekend day, or on a holiday, the licensee shall remove the  
13 graffiti within 72 hours following the beginning of the next weekday.

08/05/2010

16:30

SFPD ABC LIAISON UNIT → B OF SUPERVISOR

NO. 498

P01



**San Francisco Police Department  
ABC Liaison Unit**

Alcoholic Beverage License

**To:** The San Francisco Board of Supervisors' Committee on City Operations & Neighborhood Services

Supervisor Carmen Chu  
Supervisor John Avalos  
Supervisor Bevan Duffy

**From:** Inspector Dave Falzon  
Officer in Charge  
ABC Liaison Unit (ALU) 553-9369

**Date:** August 5, 2010

**Subject:** P.C.N. Investigation Regarding:

Mr. Joseph N. Rogoff  
Whole Food Market California, Inc.  
dba Whole Food Market  
690 Stanyan Street  
800/400-1353

Mr. Joseph N. Rogoff on behalf of Whole Food Market has filed an application with the California Department of Alcoholic Beverage Control seeking a Type 20 (off-sale beer & wine) license for 690 Stanyan Street (located between Haight Street and Stanyan Street).

**Proposed Hours of Operation:**

Sunday - Saturday 8:00 a.m. - 10:00 p.m.

**Digest:**

This premises was most recently a Cala Market and has since closed. Whole Food Market is reopening this location and if approved will be allowed to sell off-sale beer and wine.

**Letters of Protest:**

No record

08/05/2010 16:30 SFPD ABC LIAISON UNIT → B OF SUPERVISOR

NO. 498 002

**Letters of Support:**

No record

**Police Calls for Service:**

From February 18, 2010 to June 18, 2010

0

**Police Reports:**

From July 14, 2009 to June 18, 2010

0

**San Francisco Plot Information:**

This premise is located in Plot 662

500 Police Reports were recorded for this plot in 2009

This plot is 279 Police Report(s) over the citywide average (plus 20%) of 221 Police Reports.

**State Census Tract Information:**

This premise is located in Census Tract 0166

Population for this tract is: 5045

On-sale license authorized by census tract: 16

Active on-sale licenses: 26 with 1 pending

Off-sale licenses authorized by census tract: 6

Active off-sale licenses: 8 with 1 pending

**Departmental Recommendation:**

Points of consideration:

**APPROVAL w/conditions** recommendation forwarded by the ALU.

Applicant premise is located in a "high crime" area.

Applicant premise is located in an "undue concentration" area.

08/05/2010

16:30

SFPD ABC LIAISON UNIT → B OF SUPERVISOR

NO.498

P03

**No Record** letter of protest.

**No Record** letters of support

Reopening of a location that was previously ABC licensed.

Recommendation: **APPROVAL w/conditions**

**Proposed Conditions:**

1. Sales, service, and consumption of alcoholic beverages shall be permitted only between the hours of 8:00 a.m. and 10:00 p.m. each day of the week.
2. The petitioners shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control.
3. The exterior of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the premises. Additionally, the position of such lighting shall not disturb the normal privacy and use of any neighboring residences.
4. Graffiti shall be removed from the premises and all parking lots under the control of the licensee within 72 hours of application. If the graffiti occurs on a Friday or weekend day, or on a holiday, the licensee shall remove the graffiti within 72 hours following the beginning of the next weekday.

end.

08/05/2010 16:30 SFPD ABC LIAISON UNIT → B OF SUPERVISOR  
690 stanyan st, san francisco - Google Maps

NO. 498 P04

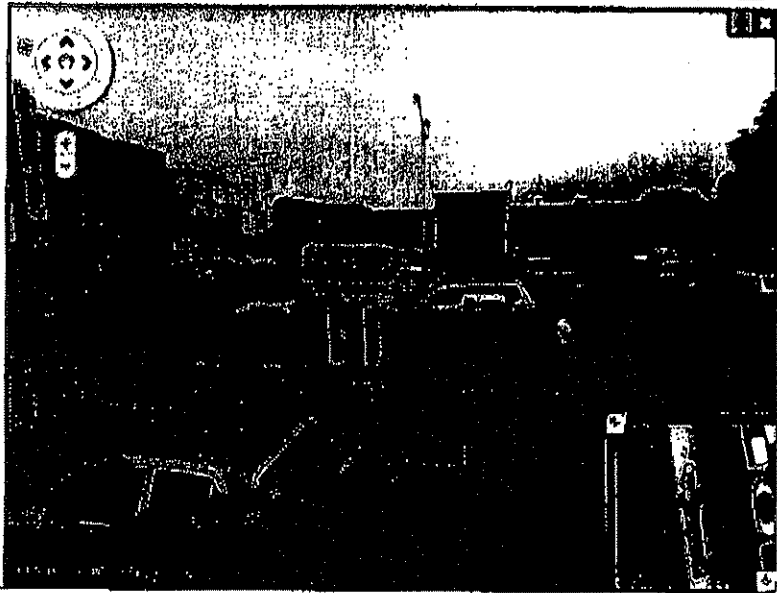
Page 1 of 1

Google maps Address

Get Directions My Maps

To see all the details that are visible on the screen, use the "Print" link next to the map.

Print Send Link





08/05/2010 16:30 SFPD ABC LIAISON UNIT → B OF SUPERVISOR  
690 stanyan st, san francisco - Google Maps

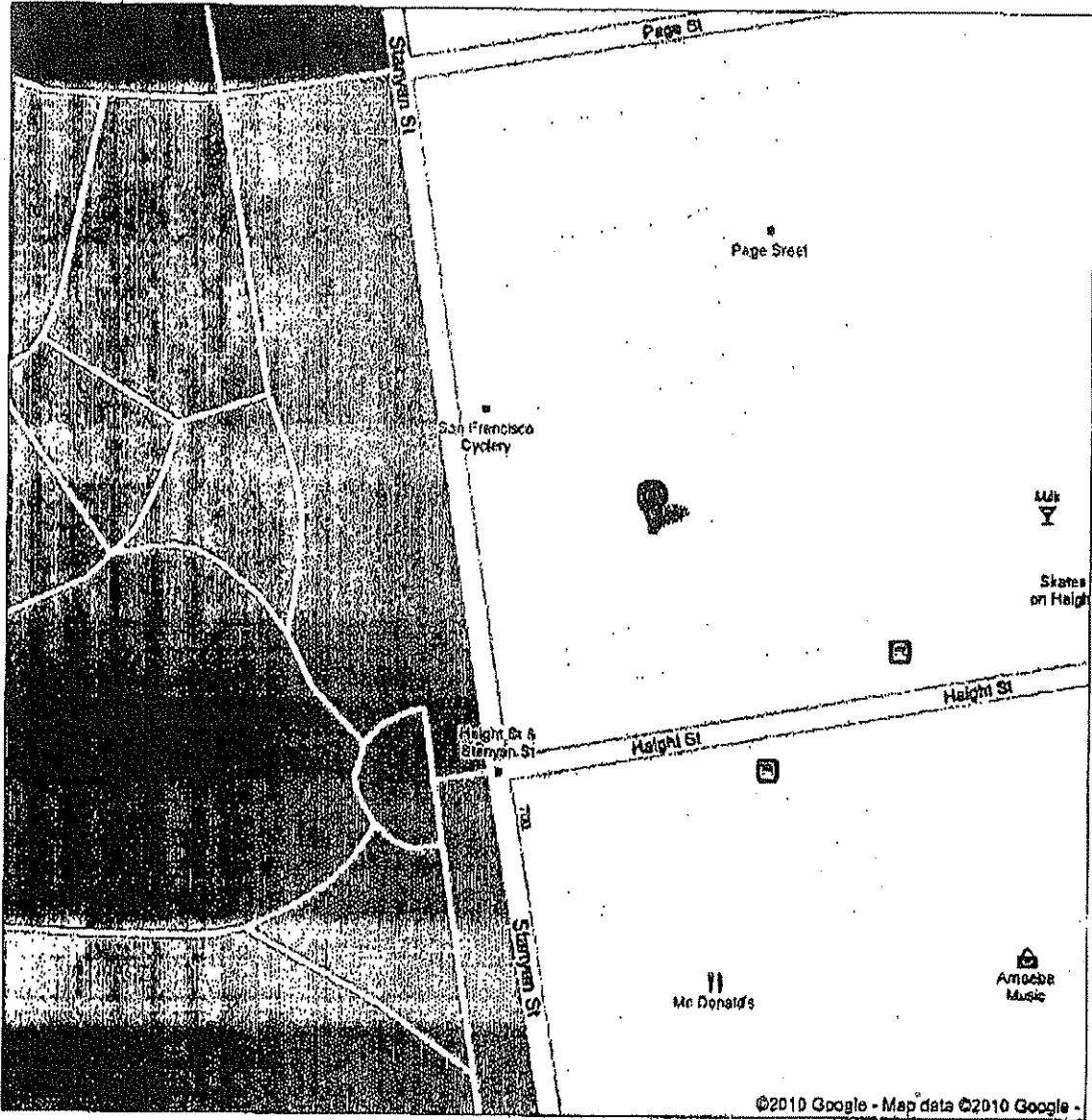
NO. 498 005

Page 1 of 1

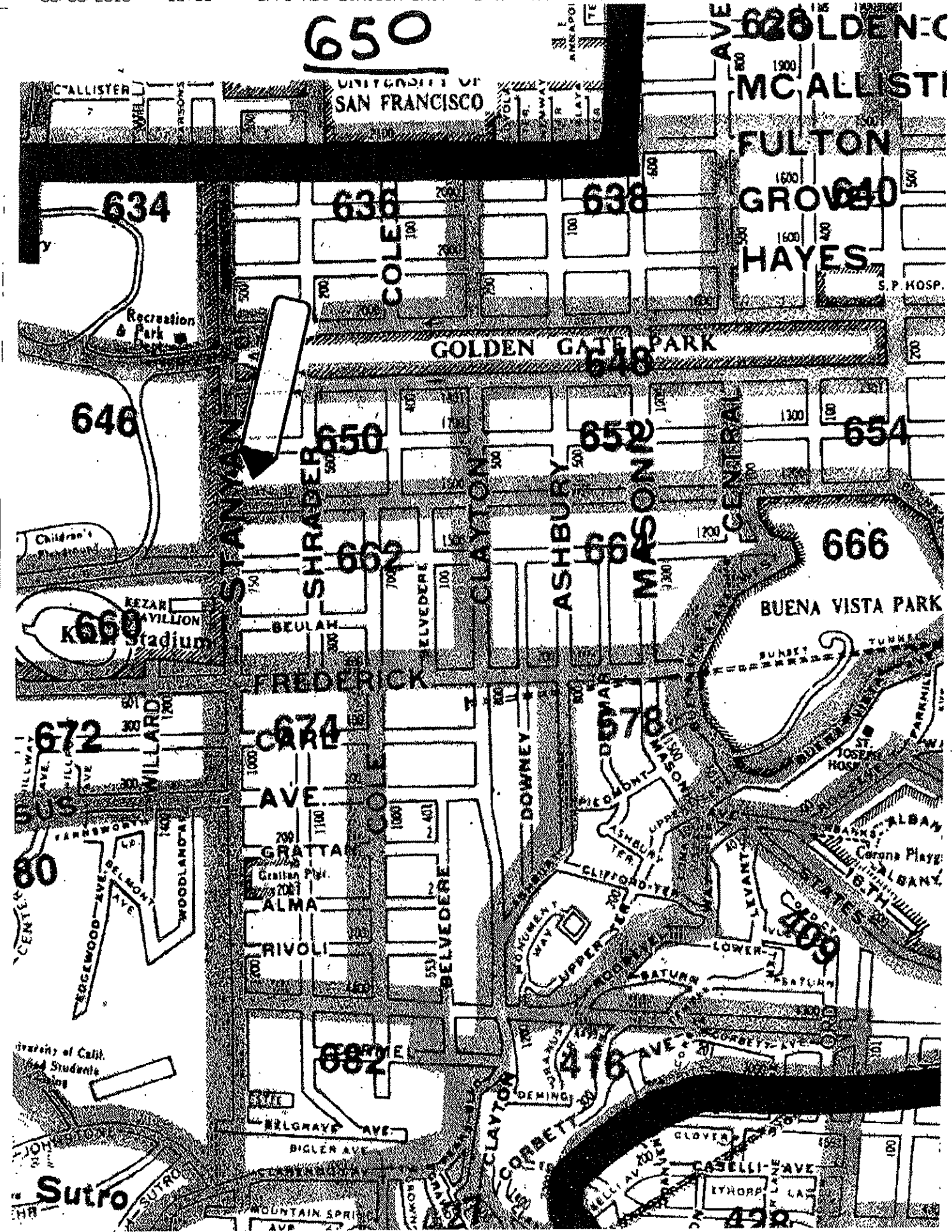
Google maps

Address 690 Stanyan St  
San Francisco, CA 94117

Get Google Maps on your phone  
Text the word "GMAPS" to 466453



650



628 GOLDEN GATE AVE  
MCALLISTER ST  
FULTON ST  
GROVE ST  
HAYES ST

634  
Recreation & Park

646  
Children's Playground

660  
Kezar Stadium

672  
WILLARD ST

682  
University of Calif. Students Center

Sutro

638  
COLE ST

650  
SHRADER ST

674  
FREDERICK ST

682  
ALMA ST

682  
BELGRAVE AVE

638  
CLAYDON ST

652  
ASHBURY ST

678  
MASON ST

699  
CLAYTON ST

499  
CORBETT ST

654  
GOLDEN GATE AVE

666  
BUENA VISTA PARK

699  
CLAYTON ST

699  
CLAYTON ST

499  
CASSELLI AVE

08/05/2010

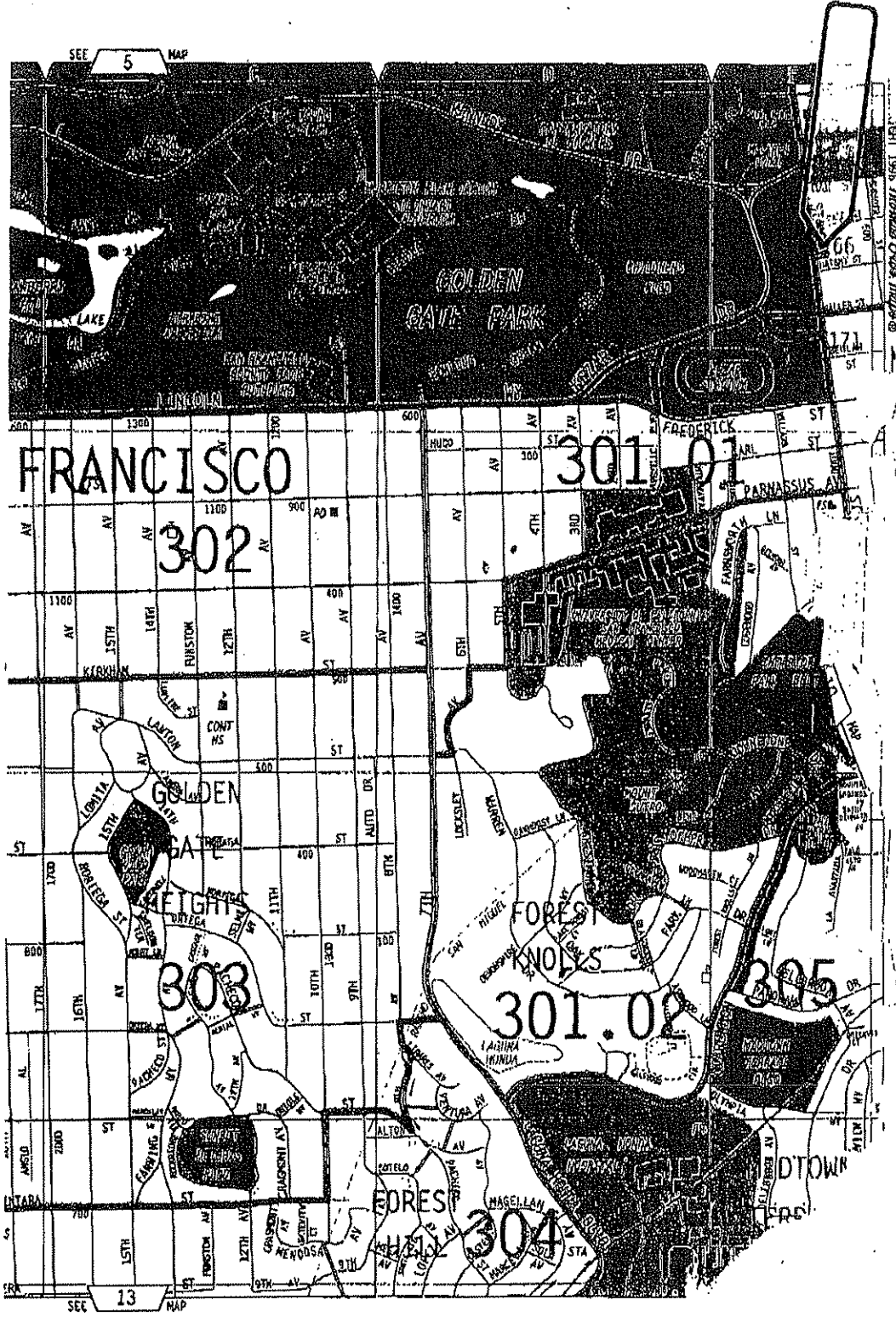
16:30

SFPD ABC LIAISON UNIT -> B OF SUPERVISOR

NO. 498

D07

166





## LIQUOR LICENSE REVIEW

**TO:** Planning Department **File: 100914**  
AnMarie Rodgers/CTYPLN/SFGOV  
Georgia Powell/CTYPLN/SFGOV@SFGOV  
Janice Shambra  
Fax No: 558-6409

BLOCK/LOT: 1228/006  
ZONING: HAIGHT ST NCD  
QUAD: NW  
MB# 1000732

**TO:** Inspector Dave Falzon  
Ken Stocker  
Police Department  
Fax No: 970-3088

**DATE:** July 14, 2010

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This item is scheduled to be heard at a meeting on August 9, 2010. **PLEASE E-MAIL YOUR RESPONSE BY: July 30, 2010** Victor Young, Clerk of City Operations and Neighborhood Services Committee.  
**Fax No: 554-7714 / victor.young@sfgov.org**

---

**Applicant Name:** Joseph N. Rogoff  
**and Business Name:** Whole Food Market California, Inc. dba Whole Food Market

**Applicant Address:** 690 Stanyan Street

**and Phone No.** 800-400-1353 (Jay McPherson or Dyana Nedra)

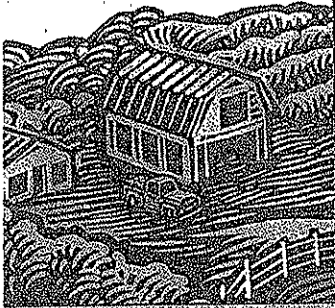
**PLANNING COMMENTS:**  Approval  Denial

ABC license type 20 is permitted in conjunction with the proposed grocery store use per Conditional Use authorization under Case No. 2009.1103C (Motion No. 18024) and subject to Section 790.55(a), (b), and (c). Attached.

Sharon Young, (415) 558-6346

7/21/10

**POLICE COMMENTS:**  Approval  Denial



naturally grown  
since 1980

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2010 JUN 30 AM 10:35  
BY \_\_\_\_\_

File # 100914

March 2, 2010

Ms. Angela Calvillo  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

Re: Public Convenience and Necessity

Dear Ms. Calvillo:

Whole Foods Market California, Inc. dba Whole Foods Market, has applied with the Department of Alcoholic Beverage Control (ABC) to transfer a Type 20, Off-sale Beer & Wine license to our new store in the Haight-Ashbury District of San Francisco. Before ABC will issue the license, they require that we secure a Letter of Public Convenience and Necessity from the San Francisco Board of Supervisors. The following facts are required for this application:

Premise address: 690 Stanyan St.  
San Francisco, CA 94117

Mailing address: 5980 Horton Street, Suite 200  
Emeryville, CA 94608

Operational hours: 8:00 AM to 10:00 PM, seven days a week

Whole Foods Market offers a wide range of natural foods and an extensive selection of fine wines and beers from around the world. We believe that offering wine and beer for sale at this new location will enhance our customers' shopping experience and best serve our local clientele. Therefore, we feel that the issuance of the Type 20 license at this location will provide a public convenience.

If any questions arise from this application, please contact one of our licensing consultants, Jay McPherson or Dyana Nedra of CSA, at 800-400-1353.

Sincerely,

Joseph N. Rogoff  
Vice President





# EXPRESS FORM

COMPLIANCE SERVICE of AMERICA, INC.  
54476 MARIAH RD., MYRTLE PT., OR 97458  
TEL 800-400-1353 • FAX 541-396-6888

RETAIL & SUPPLIER LICENSES NATIONWIDE • FEDERAL PERMITS  
RETAIL LICENSE UPKEEP • TRANSACTIONS OF ALL SIZES  
TRAINING • CUSTOM MANUALS • COMPLIANCE AUDITS

**ATTENTION:**

Ms. Angela Calvillo  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

**Via: Federal Express** 415-554-5184

**REGARDING:**

Letter of Public Convenience and Necessity

**ON BEHALF OF:**

Whole Foods Market California, Inc.  
dba Whole Foods Market  
690 Stanyan St.  
San Francisco, CA 94117

**MESSAGE:**

Whole Foods Market is establishing a new store in the Haight-Ashbury district which will hold an ABC Type 20, Off-Sale Beer and Wine license.

Due to an over concentration of off-sale licenses in the area, ABC requires a Letter of Public Convenience and Necessity from the San Francisco Board of Supervisors before the license application can be approved.

If you have any questions, please call me directly at 800-400-1353.

Thank you for your assistance.

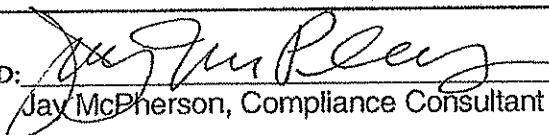
**ENCLOSURES:**

Request to issue a Letter of Public Convenience and Necessity to the California ABC

**ACTION REQUESTED:**

Please use the enclosure to initiate the process of issuing a letter of Public Convenience and Necessity to the California ABC on behalf of Whole Foods Market, California, Inc.

SIGNED:

  
Jay McPherson, Compliance Consultant

DATE:

6/29/10

**SEC. 790.51. INSTITUTIONS, OTHER SMALL.**

A public or private, nonprofit or profit-making use which provides services to the community and limited to the following:

(a) **Child Care.** A use which provides less than 24-hour care for 12 or fewer children by licensed personnel and which meets the requirements of the State of California and other authorities.

(b) **Residential Care.** A medical use which provides lodging, board and care 24 hours or more to six or fewer persons in need of specialized aid by personnel licensed by the State of California and which provides no outpatient services, including but not limited to, a board and care home, rest home, or home for the treatment of the addictive, contagious, or other diseases or physiological disorders. (Added by Ord. 445-87, App. 11/12/87)

**SEC. 790.54. LIGHT MANUFACTURING, WHOLESALE SALES.**

A commercial use, including light manufacturing or wholesale sales, as defined in Subsections (a) and (b) below.

(a) **Light Manufacturing.** A nonretail use which provides for the fabrication or production of goods, by hand or machinery, for distribution to retailers or wholesalers for resale off the premises, primarily involving the assembly, packaging, repairing, or processing of previously prepared materials, when conducted in an enclosed building having no openings other than fixed windows or exits required by law located within 50 feet of any R District. Light manufacturing uses include production and custom activities, usually involving individual or special design, or handiwork, such as the following fabrication or production activities defined by the Standard Industrial Classification Code Manual as light manufacturing uses:

- (1) Food processing, not including mechanized assembly line production of canned or bottled goods;
- (2) Apparel and other garment products;
- (3) Furniture and fixtures;

(4) Printing and publishing of books or newspapers;

(5) Leather products;

(6) Pottery;

(7) Glass blowing;

(8) Measuring, analyzing, and controlling instruments; photographic, medical and optical goods; watches and clocks.

It shall not involve the chemical processing of materials or the use of any machine that has more than five horsepower capacity, nor shall the mechanical equipment required for the use, together with related floor space used primarily by the operators of such equipment, in aggregate occupy more than  $\frac{1}{4}$  of the total gross floor area of the use.

It shall be distinct and separate from a trade shop, as defined in Section 790.124 of this Code. It shall not include other general or heavy manufacturing uses, not described in this Subsection (a).

(b) **Wholesale Sales.** A nonretail use which exclusively provides goods or commodities for resale or business use, including accessory storage. It shall not include a nonaccessory storage warehouse. (Added by Ord. 69-87, App. 3/13/87)

**SEC. 790.55. LIQUOR STORE.**

A retail use which sells beer, wine, or distilled spirits to a customer in an open or closed container for consumption off the premises and which needs a State of California Alcoholic Beverage Control Board License type 20 (off-sale beer and wine) or type 21 (off-sale general) This classification shall not include retail uses that (1) are both (a) classified as a general grocery store use as set forth in Section 790.102(a), a specialty grocery store use as set forth in Section 790.102(b), or a self-service specialty food use as set forth in Section 790.93, and (b) have a gross floor area devoted to alcoholic beverages that is within the accessory use limits set forth in Section 703.2(b)(1)(C)(vi); or (2) have both a) a use size as defined in Section 790.130 of this Code of greater than 10,000 gross square feet and (b) a gross floor area devoted to alcoholic beverages that is within accessory use limits as set forth in



Section 204.2 or 703.2(b)(1)(c) of this Code, depending on the zoning district in which the use is located. For purposes of Planning Code Sections 249.5, 781.8, 781.9, 782, 783, and 784, the retail uses explicitly exempted from this definition as set forth above shall only apply to general grocery and specialty grocery stores that exceed 5,000s/f in size, shall not:

(a) sell any malt beverage with an alcohol content greater than 5.7% by volume; any wine with an alcohol content of greater than 15% by volume, except for "dinner wines" that have been aged two years or more and maintained in a corked bottle; or any distilled spirits in container sizes smaller than 600 ml;

(b) devote more than 15% of the gross square footage of the establishment to the display and sale of alcoholic beverages; and

(c) sell single servings of beer in container sizes 24 oz. or smaller. (Added by Ord. 260-00, File No. 001424, App. 11/17/2000; Ord. 260-07, File No. 070617, App. 11/14/2007; Ord. 264-07, File No. 071532, App. 11/14/2007; Ord. 245-08, File No. 080696)

#### SEC. 790.56. LOT SIZE (PER DEVELOPMENT).

The permitted gross lot area for new construction or expansion of existing development. "Lot" is defined in Section 102.14. (Added by Ord. 69-87, App. 3/13/87; amended by Ord. 115-90, App. 4/6/90)

#### SEC. 790.58. MARQUEE.

A permanent roofed structure attached to and supported entirely by a building; including any object or decoration attached to or part of said marquee; no part of which shall be used for occupancy or storage; with the purpose of providing protection from sun and rain or embellishment of the facade; as further regulated in Sections 414 and 4506 of the Building Code. (Added by Ord. 69-87, App. 3/13/87)

#### SEC. 790.60. MESSAGE ESTABLISHMENT.

A retail use as defined in Section 1900 of the Health Code, except a use that is a sole propri-

etorship, as defined in California Business and Professions Code Section 4612(b)(1), and where the sole proprietor is certified pursuant to the California Business and Professions Code Section 4600 et seq., or one that employs or uses only persons certified by the state's Massage Therapy Organization, pursuant to the California Business and Professions Code Section 4600 et seq., provided that the massage establishment has first obtained a permit from the Department of Public Health pursuant to Section 1908 of the San Francisco Health Code, and provided that:

(a) The massage use is accessory to a principal use, if the massage use is accessed by the principal use and: (1) the principal use is a dwelling unit and the massage use conforms to the requirements of Section 204.1, for accessory uses for dwelling units in R or NC districts; or (2) the principal use is a tourist hotel as defined in Section 790.46 of this Code, that contains 100 or more rooms, a large institution as defined in Section 790.50 of this Code, or a hospital or medical center, as defined in Section 790.44 of this Code, or

(b) the only massage service provided is chair massage, such service is visible to the public, and customers are fully-clothed at all times.

(c) If the massage use does not meet the requirements of (a) or (b), above, then the massage use shall obtain a conditional use permit from the Planning Commission, pursuant to Section 303 of this Code. When considering an application for a conditional use permit pursuant to this subsection, the Planning Commission shall consider, in addition to the criteria listed in Section 303(c), the following criteria:

(1) Whether the applicant has obtained, and maintains in good standing, a permit for a Massage Establishment from the Department of Public Health pursuant to Section 1908 of the San Francisco Health Code;

(2) Whether the use's facade is transparent and open to the public. Permanent transparency and openness are preferable. Elements that lend openness and transparency to a facade include: i) active street frontage of at least 25' in length



# SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- |  |  |
|--|--|
| <input type="checkbox"/> Inclusionary Housing (Sec. 315)         | <input type="checkbox"/> First Source Hiring (Admin. Code) |
| <input type="checkbox"/> Jobs Housing Linkage Program (Sec. 313) | <input type="checkbox"/> Child Care Requirement (Sec. 314) |
| <input type="checkbox"/> Downtown Park Fee (Sec. 139)            | <input type="checkbox"/> Other                             |

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

## Planning Commission Motion No. 18024

HEARING DATE: JANUARY 28, 2010

*Date:* January 21, 2010  
*Case No.:* 2009.1103C  
*Project Address:* 690 Stanyan Street  
*Zoning:* Haight Street Neighborhood Commercial District  
Haight Alcohol Restricted Subdistrict  
40-X and 50-X Height and Bulk Districts  
*Block/Lot:* 1228/005 & 006  
*Project Sponsor:* Whole Foods Market  
5980 Horton Street, Suite 200  
Emeryville, CA 94608  
*Staff Contact:* Jonas P. Ionin – (415) 558-6309  
jonas.ionin@sfgov.org

ADOPTING FINDINGS RELATED TO CONDITIONAL USE AUTHORIZATION PURSUANT TO SECTIONS 303, 703.4 AND 719.27 OF THE PLANNING CODE TO ALLOW A "FORMULA RETAIL USE", (D.B.A. WHOLE FOODS MARKET) TO OPERATE 24 HOURS PER DAY, WITHIN THE HAIGHT STREET NEIGHBORHOOD COMMERCIAL DISTRICT, HAIGHT ALCOHOL RESTRICTED SUBDISTRICT AND 40-X AND 50-X HEIGHT AND BULK DISTRICT; AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, INCLUDING A MITIGATION MONITORING AND REPORTING PROGRAM.

### PREAMBLE

On November 25, 2009, Mr. Andrew Junius of Reuben & Junius, LLP, on behalf of Whole Foods Market, (hereinafter "Project Sponsor") filed an application (hereinafter "Application") with the Planning Department (hereinafter "Department") for Conditional Use Authorization on the adjacent parcels at 690 Stanyan Street, Lots 005 and 006 in Assessor's Block 1228 (hereinafter "Property"), to allow a "Formula Retail Use," (D.B.A Whole Foods Market) with the ability to operate 24 hours per day, in the Haight Street Neighborhood Commercial District, Haight

Alcohol Restricted Subdistrict and 40-X & 50-X Height and Bulk District, in general conformity with plans filed with the Application and labeled "Exhibit B" (hereinafter "Project").

On January 28, 2010, the San Francisco Planning Commission (Hereinafter "Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Conditional Use Application No. 2009.1103C. Conditional Use Authorization is required for the establishment of a Formula Retail Use as defined Section 703.4 of the Planning Code in any Neighborhood Commercial District identified in Article 7 of the Planning Code and hours of operation between 2 A.M. and 6 A.M., pursuant to Section 719.27 of the Planning Code in the Haight Street NCD.

Pursuant to the Guidelines of the State Secretary of Resources for the implementation of the California Environmental Quality Act (hereinafter "CEQA"), the Planning Department of the City and County of San Francisco (hereinafter "Department") issued an addendum (Case No. 2009.1103E) to the Environmental Impact Report (SCH No. 2007072026) prepared for the previous project (Case No. 2006.0460E) on December 23, 2009. The Planning Commission, certified the Final Environmental Impact Report at a duly noticed public hearing on October 23, 2008, in compliance with California Environmental Quality Act (CEQA), the State CEQA Guidelines, Public Resources Code Sections 21000 *et seq.*, and Chapter 31 of the San Francisco Administrative Code. The Commission has reviewed and concurs with said determination.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Conditional Use requested in Application No. 2009.1103C, subject to the conditions contained in "EXHIBIT A" of this motion, attached hereto and incorporated herein by reference thereto, based on the following findings:

## FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.

**Site Description and Present Use.** The Project Site is located at 690 Stanyan Street, northeast corner of Haight Street within the Haight Street Neighborhood Commercial District. The approximately 34,400 square foot site consists of a vacant grocery store (formerly occupied by a one-story plus mezzanine, 24-foot tall Cala Foods Grocery), a 42 space 15,000 square foot temporary surface parking lot and two general advertising signs located at the northern edge of the property. The adjacent parcels (larger than half an acre) sloping upward from Stanyan Street east along Haight Street, are located on the northeast corner of Stanyan and Haight Streets, Block 1228, Lots 005 & 006. The grocery store has not been in operation since June of 2006.

**Surrounding Properties and Neighborhood.** The Haight Street NCD is located in the Haight-Ashbury neighborhood, extending along Haight Street between Stanyan and Central Avenue, including a portion of Stanyan Street between Haight and Beulah Streets at the eastern entrance to Golden Gate Park. The shopping area provides convenience goods and services to the local residents as well as comparison shopping goods and services to a larger market area. The district is frequented by users of Golden Gate Park (directly across the street from the subject site) and others for its eating, drinking and entertainment places. Numerous housing units establish the district's mixed residential-commercial character. Commercial buildings without housing are typically one- and two-stories while mixed use and/or wholly residential buildings are typically three- to four-stories tall, within the Haight Street NCD and its adjacent districts. The adjacent parcel to the north is developed with a three-story residential building, while the adjacent parcel to the east is developed with a single-story commercial building. The surrounding zoning is primarily Haight Street NCD and RH-2.

**Project Description.** The Project seeks to establish a new formula retail grocery store (dba Whole Foods Market) with the ability to operate 24 hours per day on the adjacent lots of 690 Stanyan Street (Assessor's Block 1228, Lots 005 & 006), pursuant to Planning Code Sections 303, 703.4, and 719.27, within the Haight Street Neighborhood Commercial District, Haight Alcohol Restricted Subdistrict and a 40-X and 50-X Height and Bulk District.

The proposed use is a formula retail business, Whole Foods Market, with more than 280 stores throughout the United States, Canada, and the United Kingdom. According to the Whole Foods Market Mission Statement, they "are committed to helping take care of the world around us, and our active support of organic farming and sustainable agriculture helps protect our planet. And while we assist our global neighbors through our Whole Planet Foundation's micro-lending operations, we also step out the back door of each of our stores to support food banks, sponsor neighborhood events and donate to local non-profit groups." <sup>1</sup> In accordance with their mission statement, Whole Foods Market has expressed a commitment to becoming a part of the Haight Street community.

A previous Planned Unit Development (PUD), Case No. 2006.0460C, was authorized by the Planning Commission, Motion No. 17733, on October 23, 2008, to demolish the vacant grocery store, surface parking lot and general advertising signs; and develop a four-story mixed use building (62 residential units consisting of 26 studio units, 20 one-bedroom units, 15 two-bedroom units, and one three-bedroom unit over ground-floor formula retail d.b.a. Whole Foods, and mezzanine) with a 178-space subterranean parking garage. The owners of the subject property have reduced the scope of the project and limited it to a replacement grocery store with no building expansion. In recognition of this prior approval, the Commission expressly finds that this approval for the Whole Foods does not invalidate or supersede the previous authorization for a mixed-use development pursuant to the terms and conditions of Motion No. 17733, set to expire on October 23, 2011.

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<sup>1</sup> "Whole Foods Market"; <http://www.wholefoodsmarket.com/company/index.php> accessed 2/5/2009

2. **Public Comment.** The Department has received several correspondences (via standard mail, email and phone) in support of the proposal and is not aware of any opposition to this project. The Project Sponsor has attended a number of community meetings, and done outreach along Haight Street. One correspondence (email) submitted in regard to the proposal expressed concern over loading and staging of loading trucks on the surrounding streets. A condition of approval has been included to prevent any staging of loading vehicles off-site.
3. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
  - A. **Formula Retail Use.** Planning Code Sections 703.3 and 703.4 defines a formula retail use and requires Conditional Use Authorization from the Planning Commission for all new formula retail uses within all Neighborhood Commercial Districts.

*The proposed Whole Foods Market has been identified as a formula retail use. There are over 280 Whole Foods Markets throughout the United States, Canada, and the United Kingdom, and they all contain a standardized array of merchandise, facades, décor and color schemes, apparel, signage, and trademarks.*

- B. **Hours of Operation.** Planning Code Section 719.27 requires conditional use authorization for commercial uses to operate between the hours of 2 A.M. and 6 A.M..

*Many full-service grocery stores provide operating hours to accommodate the needs of populations that do not assume traditional hours of operation or are simply in need of grocery items outside "standard" business hours. The retail grocery store has requested authorization to be open 24 hours a day to allow operational and seasonal flexibility. There is no requirement that they be open 24 hours.*

- C. **Haight Street Alcohol RUSD.** Planning Code Section 781.9 prohibits new establishments from the sale of alcohol for on-site and off-site consumption in the Haight-Ashbury neighborhood. However, pursuant to Section 790.55 general grocery stores over 10,000 gross square feet with a gross floor area devoted to alcoholic beverages within the accessory use limits set forth in Section 703.2(b)(1)(c) prohibited by Section 781.9 et.al. are exempt.

*As a new full-service grocery store, replacing the former Cala Foods Market, the new grocery store will provide a full range of food products and convenience items, including the continued sale of alcoholic beverages for consumption off-site, consistent with guidelines outlined in Section 790.55.*

- D. **Parking.** For "other retail uses", Section 151 of the Planning Code requires one off-street parking space for each 500 square feet of occupied floor area up to 20,000 where the occupied floor area exceeds 5,000 square feet.

*The proposed commercial space will contain approximately 15,000 square-feet of occupied floor area, and the Project will retain the existing 42 off-street parking spaces that are located at the front of the property. Pursuant to Section 151 of the Planning Code 30 off-street parking spaces are required and pursuant to Section 204.5 of the Planning Code, up to 150% of the required amount may be added as accessory parking. Therefore, the proposal complies with the off-street parking schedule of the Planning Code.*

- E. **Loading.** One off-street freight-loading space is required for the Project, pursuant to Planning Code Section 152.

*The existing structure provides one off-street freight loading space. The proposed tenant will retain this existing space, and is thus in compliance with Planning Code Section 152.*

- F. **Signage.** Currently, there is not a proposed sign program on file with the Planning Department. Any proposed signage will be subject to the review and approval of the Planning Department.

4. **Planning Code Section 303** establishes criteria for the Planning Commission to consider when reviewing applications for Conditional Use approval. The Commission may authorize a Conditional Use after finding that the proposed use will provide a development that is necessary or desirable for and compatible with the neighborhood or the community, that such use will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity, or injurious to property, improvements or potential development in the vicinity and that such use will not adversely affect the General Plan. On balance, the project does comply with said criteria in that:

- A. The proposed new uses and building, at the size and intensity contemplated and at the proposed location, will provide a development that is necessary or desirable, and compatible with, the neighborhood or the community.

*The project as proposed, at the size and intensity contemplated and at the proposed location, will provide development that is necessary and desirable for, and compatible with, the neighborhood or the community because:*

*The proposed project will be the same use as a previous formula retail grocery store, it will be located within the same building envelope, within approximately the same square footage, and will be a development that is necessary and desirable for the Haight Street community. By reverting this property to a large retail grocery store, the Haight Street neighborhood is provided with a necessary amenity that has not been in operation since June of 2006.*

B. The proposed project will not be detrimental to the health, safety, convenience or general welfare of persons residing or working in the vicinity. There are no features of the project that could be detrimental to the health, safety or convenience of those residing or working the area, in that:

- i. Nature of proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;

*The size and shape of the Subject Property are compatible with the existing pattern of development in the area, in that the Project does not propose exterior alterations that will significantly affect the size, shape or arrangement of structures on the lot.*

- ii. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;

*The proposed commercial space will contain approximately 15,000 square-feet of occupied floor area, and the Project will retain the existing 42 off-street parking spaces that are located at the front of the property. The existing off-street loading space will also be retained. Furthermore, the subject location is well served by public transit. MUNI lines within a one block radius include: the N Judah, 7, 33, 37, 43, and 71; within a five block radius they also include: the 5, 6, 21, and N Judah.*

- iii. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;

*The proposed use – by the nature of the business – should not produce noxious or offensive emissions such as noise, glare, dust and odor.*

- iv. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;

*The Conditional Use Application for a formula retail use does not include any changes to the existing parking and loading areas, or service areas. However, the Project Sponsor has stated that Whole Foods Market will improve the aesthetics of the Site by adding landscaping, new signage identifying the grocery store and some modifications to lighting may occur.*

- v. That the use as proposed will comply with the applicable provisions of the Planning Code and will not adversely affect the General Plan.

*The Project complies with all relevant requirements and standards of the Planning Code and is consistent with Objectives and Policies of the General Plan as detailed below.*

- vi. That the use as proposed would provide development that is in conformity with the purpose of the applicable Neighborhood Commercial District.

*The Project is consistent with the stated purposes of Haight Street NCD in that the intended use is located at the ground floor, and will provide a compatible convenience service for the immediately surrounding neighborhoods.*

5. Section 303 (i). With respect to an application for a formula retail use as defined in Planning Code Section 703.3, whenever a conditional use permit is required, the Planning Commission shall consider the following criteria, in addition to the criteria set forth in Section 303(c). The Project is found to be consistent with the criteria of Planning Code Section 303(i) in that:

- A. The existing concentrations of formula retail uses within the Neighborhood Commercial District;

*The Haight Street NCD, which extends from Central Avenue to Stanyan Street, is a diverse commercial district that provides convenience goods and services to local residents, while also providing some comparison shopping, a host of eating and drinking establishments, and entertainment. What is noteworthy and charming about Haight Street is that there are very few formula retail establishments, giving Haight Street a very strong sense of individuality and uniqueness. The proposed retail operator for the new full-service grocery store, Whole Foods Market, while technically fitting the definition of formula retail, expresses the features that define formula retail in a low key manner. Given that there are very few formula retail uses on Haight Street, allowing a formula retail full-service grocery store to locate on Haight Street would not be detrimental to the diverse commercial character of Haight Street, particularly since Whole Foods, or similarly comparable operator, replaces a prior formula retail grocer – Cala Foods.*

- B. The availability of other similar retail uses within the Neighborhood Commercial Districts;

*With the closing of Cala Foods, Haight Street lost its only major grocer/supermarket. Not having a supermarket on Haight Street has resulted in hardship and inconvenience to Haight-Ashbury residents, requiring that residents travel greater distances to other commercial districts for their grocery and sundry shopping requirements. The closing of Cala Foods has also resulted in a "dead activity zone" on Haight Street. A new full-service grocery store on Haight Street would be the only such use in this commercial district and would result in environmental benefits stemming from area residents not having to drive and/or travel greater distances to other commercial areas for their convenience shopping needs.*

- C. The compatibility of the proposed formula retail use with the existing architectural and aesthetic character of the Neighborhood Commercial District;



*The proposal is to occupy the vacated retail grocery store structure on the Subject Property. Whole Foods Market plans to remodel the interior space and exterior façade (moving the main entrance closer to Haight Street and adding glazing along the Haight and Stanyan Street facades), thus preserving and improving the existing architectural and aesthetic character of the Neighborhood Commercial District. No expansion of the building is proposed under this Application.*

- D. The existing retail vacancy rates within the Neighborhood Commercial District;

*The Haight Street NCD enjoys a relatively low commercial vacancy rate due to the popularity of this district. However, the project site has not had a permanent commercial tenant since June of 2006. The vacant status of the site serves to diminish the attractiveness of Haight Street as a retail destination. Allowing a formula retail grocer to reoccupy this site will restore and strengthen retail vitality along Haight Street, while substantially expanding convenience shopping opportunities for Haight-Ashbury residents.*

- E. The existing mix of Citywide-serving retail uses and neighborhood-serving retail uses within the Neighborhood Commercial District.

*The Haight Street NCD does attract both a citywide and regional clientele and consequently has retail outlets, eating and drinking establishment and entertainment venues that compete for commercial space at the expense of neighborhood serving retailers. The proposed grocery store, although a formula retailer, serves to bring balance and much needed convenience goods to local Haight-Ashbury residents.*

6. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

## **COMMERCE AND INDUSTRY**

### **Objectives and Policies**

#### **OBJECTIVE 1:**

**MANAGE ECONOMIC GROWTH AND CHANGE TO ENSURE ENHANCEMENT OF THE TOTAL CITY LIVING AND WORKING ENVIRONMENT.**

#### **Policy 1.1:**

Encourage development which provides substantial net benefits and minimizes undesirable consequences. Discourage development that has substantial undesirable consequences that cannot be mitigated.

#### **Policy 1.2:**

Assure that all commercial and industrial uses meet minimum, reasonable performance standards.

**Policy 1.3:**

Locate commercial and industrial activities according to a generalized commercial and industrial land use plan.

*The Project will provide desirable goods and services to the neighborhood and will provide resident employment opportunities to those in the community. The Project will provide benefits to the community by allowing the tenant improvements to the neighborhood's only large grocery store. The former tenant vacated in June of 2006 leaving the building vacant for an extended period of time. This commercial space would be difficult to rent due to its existing configuration and size to anyone other than a formula retail grocery store. Therefore, the proposal is consistent with the area's commercial land use plan.*

**OBJECTIVE 2:**

MAINTAIN AND ENHANCE A SOUND AND DIVERSE ECONOMIC BASE AND FISCAL STRUCTURE FOR THE CITY.

**Policy 2.1:**

Seek to retain existing commercial and industrial activity and to attract new such activity to the City.

*The Project will re-activate commercial activity at this Site.*

**OBJECTIVE 3:**

PROVIDE EXPANDED EMPLOYMENT OPPORTUNITIES FOR CITY RESIDENTS, PARTICULARLY THE UNEMPLOYED AND ECONOMICALLY DISADVANTAGED.

**Policy 3.1:**

Promote the attraction, retention and expansion of commercial and industrial firms which provide employment improvement opportunities for unskilled and semi-skilled workers.

**Policy 3.2:**

Promote measures designed to increase the number of San Francisco jobs held by San Francisco residents.

*Whole Foods Market will provide employment opportunities for unskilled and semi-skilled workers. Whole Foods Market has stated that they intend to hire local residents. The store will create approximately 150 employment opportunities.*

**OBJECTIVE 6: MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.**

**Policy 6.1:**

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

*The Project would result in the re-activation of a neighborhood-serving retail grocery store, at a critical location. There are no other large grocery stores in the immediate neighborhood south of the panhandle and thus this grocery store provides diversity of goods and services available to the Haight Street NCD.*

**TRANSPORTATION**

**Objectives and Policies**

**OBJECTIVE 2:**

USE THE TRANSPORTATION SYSTEM AS A MEANS FOR GUIDING DEVELOPEMTN AND IMPROVING THE ENVIRONMENT.

**Policy 2.2:**

Reduce pollution, noise and energy consumption.

*The Project will re-activate a neighborhood-serving use on Haight Street, allowing residents to walk, bicycle, or take public transit to their local grocery store.*

**OBJECTIVE 35:**

**URBAN DESIGN**

**Objectives and Policies**

**OBJECTIVE 1:**

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

**Policy 1.6:**

Make centers of activity more prominent through design of street features and by other means.

**Policy 1.7:**

Recognize the natural boundaries of districts, and promote connections between districts.

*The vacated retail grocery store building shell at the Subject Property is a prominent site that marks the western entrance to the Haight Street Neighborhood Commercial District and the*

*eastern entrance into Golden Gate Park. Allowing a grocer recognized worldwide will only enhance the connection between two San Francisco attractions.*

7. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the Project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

*The Project will result in the opportunity to enhance local employment opportunities, and increase foot traffic along the commercial corridor that will benefit the surrounding neighborhood-serving retail.*

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

*This Project will maintain the existing neighborhood character in that it will reoccupy and improve a previously vacated grocery store with a new grocer that will serve the local community.*

- C. That the City's supply of affordable housing be preserved and enhanced,

*No affordable housing is impacted as a result of this Project.*

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

*The Project Site is at the corner of Stanyan and Haight Streets, and is well served by public transit. There is no proposed change of use at this Site, as the previously existing formula retail grocery store will be replaced with a formula retail grocery store of the same size and in the same general configuration on the lot. The existing parking exceeds the amount required and meets the loading requirement. The Project Sponsor has expressed intent to hire local residents as employees, which will also help to reduce demand on MUNI and minimize vehicular traffic and parking congestion at and around the Subject Property.*

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

*The proposal will displace a temporary surface parking lot that was created as an interim use during the entitlement process. The new grocery store will enhance future opportunities for resident employment. The store will employ approximately 150 "team members."*

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*The Project will conform to the structural and seismic safety requirements of the San Francisco Building Code; therefore, this Project will not impact the existing structure's ability to withstand an earthquake.*

- G. That landmarks and historic buildings be preserved.

*No landmark or historic building occupies the Project Site. Further, no significant alterations are proposed for the exterior of the building.*

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

*The Project is approximately 24-feet tall and will, therefore, have no negative impact on existing parks and open spaces. The Project does not have an impact on any open spaces.*

8. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.

9. Findings Under the California Environmental Quality Act (CEQA).

- i. On December 23, 2009, Planning Department issued an addendum (Case No. 2009.1103E) to the Final Environmental Impact Report (FEIR) prepared for the previous project (Case No. 2006.0460E). On October 23, 2008, by Motion No. 17732, the Planning Commission certified the FEIR for the previous project as prepared by the Planning Department (Department) in compliance with CEQA, the State CEQA Guidelines and Chapter 31. The Planning Commission hereby adopts and incorporates by reference the CEQA certification findings for the Project as set forth in Planning Commission Motion No. 18024, a copy of which is on file with the Commission Secretary.
- ii. In accordance with the provisions of CEQA, the State CEQA Guidelines and Chapter 31, the Department and the Planning Commission have reviewed and considered the information contained in the FEIR and all information pertaining to the project in the Department's case file
- iii. Any and all documents referenced in this Motion are either attached to this Motion or may be found in the files of the San Francisco Planning Department, as the custodian of records, at 1650 Mission Street in San Francisco.

- iv. The proposed Modified Project as reflected in Case No. 2009.1103C is consistent with the project as described in the FEIR and would not result in any significant impacts not identified in the FEIR nor cause significant effects identified in the FEIR to be substantially more severe.
  - v. The Commission hereby adopts and incorporates by reference as though fully set forth herein findings under the California Environmental Quality Act, Public Resources Code Sections 21000 *et seq.* (CEQA), as set forth in Exhibit C to this Motion.
  - vi. Mitigation. Pursuant to CEQA, the Commission has considered the mitigation measures as described in the FEIR and includes these measures as conditions of project approval (see EXHIBIT A). Additionally, the Department hereby adopts the Mitigation Monitoring and Reporting Program (MMRP) and Monitoring Program for Improvement Measures, attached as EXHIBIT 1 to EXHIBIT C, and incorporates such MMRP and Monitoring Program for Improvement Measures by reference as though fully set forth herein.
  - vii. The Planning Commission additionally finds that implementation of the Modified 690 Stanyan Street Project (1) does not require major revisions in the FEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects, (2) no substantial changes have occurred with respect to the circumstances under which the project analyzed in the FEIR will be undertaken that would require major revisions to the FEIR due to the involvement of new significant environmental effects, or a substantial increase in the severity of effects identified in the FEIR, and (3) no new information of substantial importance to the project analyzed in the FEIR has become available which would indicate that (i) the Modified 690 Stanyan Street Project will have significant effects not discussed in the FEIR; (ii) significant environmental effects will be substantially more severe; (iii) mitigation measures or alternatives found not feasible which would reduce one or more significant effects have become feasible; or (iv) mitigation measures or alternatives which are considerably different from those in the FEIR will substantially reduce one or more significant effects on the environment.
10. The Commission hereby finds that approval of the Conditional Use authorization is Necessary and Desirable, and would promote the health, safety and welfare of the City.

**DECISION**

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby:

**APPROVES** Conditional Use Application No. 2009.1103C subject to the following conditions attached hereto as "EXHIBIT A", which is incorporated herein by reference as though fully set forth. The Commission has reviewed and considered the FEIR and hereby adopts the findings under the California Environmental Quality Act, Public Resources Code Sections 21000 *et seq.* (CEQA), as set forth in "EXHIBIT C" to this Motion on January 28, 2010. EXHIBIT C is hereby incorporated by reference as though fully set forth herein. Additionally, the Commission hereby adopts the Mitigation Monitoring and Reporting Program (MMRP), and Monitoring Program for Improvement Measures, attached as EXHIBIT 1 to EXHIBIT C, and incorporates such MMRP and Monitoring Program for Improvement Measures by reference as though fully set forth herein.

**APPEAL AND EFFECTIVE DATE OF MOTION:** Any aggrieved person may appeal this Conditional Use Authorization to the Board of Supervisors within thirty (30) days after the date of this Motion No. 17826. The effective date of this Motion shall be the date of this Motion if not appealed (after the 30-day period has expired) OR the date of the Decision of the Board of Supervisors if appealed to the Board of Supervisors. For further information, please contact the Board of Supervisors at (415) 554-5184, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

I hereby certify that the Planning Commission **ADOPTED** the foregoing Motion on January 28, 2010

Linda D. Avery

Commission Secretary

**AYES:** Commissioners Miguel, Olague, Antonini, Lee, Moore, Sugaya

**NAYS:** None

**ABSENT:** Commissioner Borden

**ADOPTED:** January 28, 2010

## EXHIBIT A

### CONDITIONS OF APPROVAL

#### Authorization

1. This authorization is for a Conditional Use to establish a new formula retail grocery store (dba Whole Foods Market) with the ability to operate 24 hours per day, on the adjacent lots of 690 Stanyan Street (Assessor's Block 1228, Lots 005 & 006), pursuant to Planning Code Sections 303, 703.4, and 719.27, within the Haight Street Neighborhood Commercial District, Haight Alcohol Restricted Subdistrict and 40-X and 50-X Height and Bulk District, in general conformance with plans filed with the Application as received on January 20, 2010, and stamped "EXHIBIT B" included in the docket for Case No. 2009.1103C, reviewed and approved by the Commission on January 28, 2010.
2. Prior to the issuance of the Building Permit for the Project the Zoning Administrator shall approve and order the recordation of a Notice of Special Restrictions with the Office of the Recorder of the City and County of San Francisco for the premises (Assessor's Block 1228, Lots 005 and 006), which notice shall state that construction has been authorized by and is subject to the conditions of this Motion. From time to time after the recordation of such notice, at the request of the Project Sponsor, the Zoning Administrator shall affirm in writing the extent to which the conditions of this Motion have been satisfied.

#### Design & Maintenance

3. The Project Sponsor shall continue to work on developing refined architectural and landscaping plans subject to Planning Department review and approval.
4. Signs and exterior lighting for the business shall be reviewed and approved by the Planning Department before they are installed.
5. The Project Sponsor shall maintain an attractive storefront providing visibility of the grocery store interior through the storefront windows. Street-facing windows shall not be blocked by displays or other obstacles in order to allow for visual connection between the street and the store interior. Highly reflective glass, tinted glass, or mirror glass shall not be applied on any area of the façade.
6. The operator shall maintain the entrances to the building and all sidewalks abutting the Subject Property – on Stanyan and Haight Streets – in a clean condition. Such maintenance shall include, at a minimum, daily litter pickup and disposal, and washing or steam cleaning of the main entrances and abutting sidewalks at least once each week.
7. An enclosed garbage area shall be provided within the establishment. All garbage containers shall be kept within the building until pick-up by the disposal company.



**Parking & Traffic**

8. Semi-trailer loading shall not occur during the night and peak traffic hours, defined as: 7 A.M. to 9:00 A.M. AND 3:30 P.M. to 6:30 P.M. Monday thru Friday; AND 11 A.M. to 2:00 P.M. Saturday thru Sunday; AND 11:00 P.M. to 4:00 A.M. Monday thru Sunday; and may only occur outside of those nighttime and peak traffic hours.
9. Loading dock personnel shall be stationed on Stanyan Street whenever delivery vehicles accessing the loading dock require traffic lanes to be blocked, in the north bound and/or south bound direction, to assist truck maneuvering and manage traffic flow.
10. Loading dock staging shall be prohibited from Stanyan Street as well as adjacent and surrounding streets, and deliveries by large trucks associated with the grocery store shall be scheduled such that queuing off-site is unnecessary.
11. The Project Sponsor shall work with SFMTA and the Planning Department one year from the date the grocery store opens to determine if left turn restrictions into and out of the parking lot are warranted. If left turn restrictions from/onto Stanyan and/or Haight Streets are restricted the grocery store operator shall prepare and distribute to customers leaflets regarding turn restrictions and route options to mitigate impacts to surrounding residential streets.
12. The Project Sponsor shall work with SFMTA to develop traffic calming measures and install pedestrian warning devices such as blinking lights in the crosswalks across Stanyan Street to alert motorists of pedestrians crossing and lights and/or alarms at garage entrances to alert pedestrians of motorists exiting.
13. The project shall provide bicycle parking spaces on-site.

**Monitoring & Violation**

14. Violation of the conditions contained in this Motion or of any other provisions of the Planning Code may be subject to abatement procedures and fines up to \$500 a day in accordance with Planning Code Section 176.
15. Should monitoring of the Conditions of Approval contained in Exhibit A of this Motion be required, the Project Sponsor or successors shall pay fees as established in Planning Code Section 351(e)(1).
16. The Project shall appoint a Community Liaison Officer to address issues of concern to neighbors related to the operation of this Project. The Project Sponsor shall report the name and telephone number of this Officer to the Zoning Administrator and the neighborhood for reference. The Applicant will keep the above parties apprised should a different staff liaison be designated.

**Performance**

17. This Authorization does not invalidate or supersede the previous authorization for a mixed-use development pursuant to the terms and conditions of Motion No. 17733, set to expire on October 23, 2011.
  
18. The Planning Commission may, in a public hearing, consider the revocation of this conditional use authorization if a site or building permit has not been issued within three (3) years of the date of the Motion approving the project. Once a site or building permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued thenceforth diligently to completion. The Commission may also consider revoking this conditional use authorization if a permit for the project has been issued but is allowed to expire and more than three (3) years have passed since the Motion was approved.
  
19. This authorization shall be extended for up to two years at the discretion of the Zoning Administrator only where failure to issue a permit by the Department of Building Inspection to perform said tenant improvements is caused by a delay by a City, State or Federal agency or by any appeal of the issuance of such permit(s).

## EXHIBIT C

### CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS OF THE SAN FRANCISCO PLANNING COMMISSION FOR THE MODIFIED 690 STANYAN STREET PROJECT

The San Francisco Planning Commission (hereinafter "Commission") hereby ADOPTS THESE FINDINGS pursuant to the California Environmental Quality Act, Public Resources Code Sections 21000 *et seq.*, ("CEQA"), for an Addendum to the Final Environmental Impact Report ("FEIR"), identified as case file No. 2009.1103E, for the proposed retail use at 690 Stanyan Street (hereinafter "Modified Project"). In determining to approve the Project, the Commission makes and adopts the following findings of fact and adopts the following evaluation and recommendations regarding mitigation measures with respect to the Project, both as previously approved (see Motion No. 17733) and as modified as described herein, in light of substantial evidence in the whole record of prior and current Project proceedings, including but not limited to, the FEIR and pursuant to the requirements of CEQA, particularly Sections 21081 and 21081.5, 14 California Code of Regulations Sections 15000 *et seq.* (the "CEQA Guidelines"), particularly Sections 15091 through 15093, and Chapter 31 of the San Francisco Administrative Code.

#### I. INTRODUCTION AND PROJECT DESCRIPTION

This document is organized as follows:

**Section I** provides a description of the Modified Project, the environmental review process for the Modified Project, and a description and the location of records.

**Section II** provides a description of the Planning Commission actions to be taken.

**Section III** identifies potentially significant impacts associated with the Project as previously approved that are avoided or reduced to less-than-significant levels and makes findings regarding Mitigation Measures. **EXHIBIT 1**, the MMRP and Monitoring Program for Improvement Measures, attached hereto, contains the Mitigation Monitoring and Reporting Program ("MMRP") as revised to address the specifics of the Modified Project, including the full text of the mitigation measures. It also contains the text of and a monitoring program for improvements measures that reduce impacts for the less-than-significant impacts. With the implementation of mitigation measures, all significant impacts will be avoided or reduced to a less-than-significant level.

### A. Project Description

The project site is at 690 Stanyan Street, on the corner of Stanyan Street and Haight Street, in the Haight Ashbury neighborhood. It lies on Assessor's Block 1228, Lots 005 and 006, which has an approximate area of 34,406 square feet (sf), or about 0.79 acres.

The project site is occupied by a one-story with mezzanine, 19,000 square foot vacant commercial building, formerly occupied by Cala Foods, and a surface for pay 42-space parking lot. The site also has two general advertising bill-boards.

The Project seeks to establish a new formula retail grocery store (dba Whole Foods Market) with the ability to operate 24 hours per day on the adjacent lots of 690 Stanyan Street (Assessor's Block 1228, Lots 005 & 006), pursuant to Planning Code Sections 303, 703.4, and 719.27, within the Haight Street Neighborhood Commercial District, Haight Alcohol Restricted Subdistrict and a 40-X and 50-X Height and Bulk District.

The proposed use is a formula retail business, Whole Foods Market, with more than 280 stores throughout the United States, Canada, and the United Kingdom. According to the Whole Foods Market Mission Statement, they "are committed to helping take care of the world around us, and our active support of organic farming and sustainable agriculture helps protect our planet. And while we assist our global neighbors through our Whole Planet Foundation's micro-lending operations, we also step out the back door of each of our stores to support food banks, sponsor neighborhood events and donate to local non-profit groups."<sup>2</sup> In accordance with their mission statement, Whole Foods Market has expressed a commitment to becoming a part of the Haight Street community.

A previous Planned Unit Development (PUD), Case No. 2006.0460C, was authorized by the Planning Commission, Motion No. 17733, on October 23, 2008, to demolish the vacant grocery store, surface parking lot and general advertising signs; and develop a four-story mixed use building (62 residential units consisting of 26 studio units, 20 one-bedroom units, 15 two-bedroom units, and one three-bedroom unit over ground-floor formula retail d.b.a. Whole Foods, and mezzanine) with a 178-space subterranean parking garage. The owners of the subject property have reduced the scope of the project and limited it to a replacement grocery store with no building expansion. In recognition of this prior approval, the Commission expressly finds that this approval for the Whole Foods does not invalidate or supersede the previous authorization for a mixed-use development pursuant to the terms and conditions of Motion No. 17733, set to expire on October 23, 2011.

The project site is located in the Haight Street Neighborhood Commercial District (NCD) Planning Code Section 719.1, and a 40-X and 50-X Height & Bulk District within the Haight Ashbury neighborhood. The intent of the Haight Street NCD district is to protect the existing building scale and promote new mixed-use development which is in character with adjacent buildings. The Haight Street NCD also strives to maintain the balanced mix and variety of neighborhood-serving commercial uses.

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<sup>2</sup> "Whole Foods Market"; <http://www.wholefoodsmarket.com/company/index.php> accessed 2/5/2009

Existing land uses in the immediate vicinity of the project site include primarily ground floor commercial uses along Haight Street with one to three additional floors of residential use at upper floors. Golden Gate Park is immediately west of the project site and a "McDonalds" fast food franchise is directly across Haight Street to the south. The broader area surrounding this site is principally one to four-story residential. The project site is served by several MUNI bus lines that run on Haight Street.

The proposed project would require Conditional Use Approval by the Planning Commission; issuance of building permits by the Department of Building Inspection (DBI); and issuance of street improvement permits by Department of Public Works (DPW) for street tree planting.

### **B. Environmental Review**

On January 19, 2008, the Planning Department prepared and published a Draft Environmental Impact Report ("DEIR"). The Planning Commission held a duly noticed public hearing on the DEIR on February 28, 2008, at which opportunity for public comment was given. Public comment was received on the DEIR both at the public hearing on the DEIR and in writing.

The Planning Department prepared responses to comments on environmental issues received at the public hearing and in writing during the public review period for the DEIR, prepared revisions to the text of the DEIR, and published the Comments and Responses on October 1, 2008.

The Planning Commission certified a Final Environmental Impact Report (FEIR) for the Project on October 23, 2008 and the motion to certify the FEIR was appealed to the Board of Supervisors. On November 18, 2008 the Board of Supervisors denied the appeal and affirmed the Planning Commission's certification of the FEIR. Since that time, the project sponsor has submitted a revised application for a change of use at the project site as described previously in Section A.

CEQA Guidelines Section 15164 provides for the use of an addendum to document the basis for a lead agency's decision not to require a Subsequent or Supplemental EIR for a project that is already adequately covered in an existing certified EIR. The lead agency's decision to use an addendum must be supported by substantial evidence that the conditions that would trigger the preparation of a Subsequent EIR, as provided in CEQA Guidelines Section 15162, are not present.

### **C. Description and Location of Records**

The findings for the Modified Project incorporate the findings for the previously approved project by reference are based on substantial evidence in the record before the Planning Commission. These findings are based on the information contained in the FEIR, as supplemented by information provided by the applicant, consultants, and interested parties, and reasonable inferences drawn from such information, identified below. The record for this Project is located at the Planning Department, 1650 Mission Street, 4<sup>th</sup> Floor, San Francisco, California. The Planning Department is the custodian of these documents and materials.

For the purposes of CEQA and these findings, the record before this Commission includes, without limitation, the following:

1. All application materials and supporting documents submitted by the Project Sponsor;
2. The 690 Stanyan Street Project FEIR, including the Draft EIR, comments received on the Draft EIR, Responses to Comments, staff initiated text changes, and all appendices;
3. Addendum to the FEIR;
4. The Mitigation Monitoring and Reporting Program for the 690 Stanyan Street Modified Project, as revised to address potential environmental effects of the Modified Project;
5. All meeting agendas, minutes and reports to the Planning Commission and other Boards and Commission reports, correspondence, references and material kept in the ordinary course of business associated with the public planning process for the Project; and
6. All relevant staff, and public reports and memoranda kept in the ordinary course of business providing substantial evidence to support these findings, and the EIR, including attachments, appendices and references kept in the ordinary course of business.

## II. PLANNING COMMISSION ACTIONS

The Planning Commission is considering various actions ("Actions"), in furtherance of the Project, which include the following:

- a) Adoption of these CEQA Findings, mitigation measures, and a mitigation monitoring and reporting program.
- b) Approval of a Conditional Use authorization to allow a formula retail use with extended hours of operation (24 hours) in the Haight Street NCD, pursuant to Planning Code Sections 303, 703.4 and 719.27.

## III. POTENTIALLY SIGNIFICANT IMPACTS THAT ARE AVOIDED OR REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL AND FINDINGS REGARDING MITIGATION MEASURES

The potentially significant impacts of the project that will be mitigated to a less-than-significant level through implementation of mitigation measures include impacts to archeological resources, construction air quality, hazardous soil, and hazardous building materials.

Of the topics listed above, the Initial Study identified mitigation measures related to archeological resources (Mitigation Measure 1, Archeology Monitoring, FEIR Appendix A, pp. 67-70), air quality (Mitigation Measure 2, Construction Air Quality, Appendix A, FEIR p. 71, and hazards (Mitigation Measures 3 and 4, Construction Air Quality and Other Hazardous Building Materials, Appendix A, FEIR pp. 71-73). As the modified project would no longer entail soils-

disturbing activities, the Planning Department finds that FEIR Mitigation Measures 1 (related to archeological monitoring) and 3 (related to contaminated soils and groundwater testing) are no longer required, because the modified project would avoid potential effects related to archeological resources and potential exposure to hazardous materials in both the soil and groundwater. The potential for the presence of other hazardous building materials (such as asbestos and lead-based paint) and polychlorinated biphenyl (PCBs) are addressed through the building permit regulations and FEIR Mitigation Measure 4. The Initial Study, including the significance conclusions reached therein, remains applicable to the modified project and with exception of the specific mitigation measures (Mitigation Measures 1 and 3) listed above. Mitigation Measures 2 and 4 would still be applied to the modified project, as appropriate.

The Project Sponsor has agreed to implement all mitigation measures identified in the FEIR addendum, and the Commission has imposed those mitigation measures as conditions of approval. The Commission hereby adopts the Mitigation Monitoring and Reporting Program, as required by CEQA Section 21081.6. The Mitigation Monitoring and Reporting Program is attached hereto as EXHIBIT 1, the MMRP and Monitoring Program for Improvement Measures, and incorporated herein by reference. The purpose of this Mitigation Monitoring and Reporting Program is to ensure that the responsible official or entity carries out each measure. The full text of each mitigation measures as set forth in the FEIR addendum is contained in Exhibit 1. In addition, Exhibit 1 includes the text of and a monitoring program for six improvement measures that the FEIR addendum identified as measures that would reduce impacts that were not significant. The required mitigation measures and improvement measures are fully enforceable and are included as conditions of approval in the Planning Commission's Planning Code Section 303 proceeding or will be enforced through inclusion as conditions of approval in any building permits issued for the Project by the San Francisco Department of Building Inspection or other permits issued by the Department of Public Works.

With the required mitigation measures, all potential project impacts would be avoided or reduced to a less-than-significant level.

As authorized by CEQA Section 21081 and CEQA Guidelines Section 15091, 15092, and 15093, based on substantial evidence in the whole record of this proceeding, the City finds that all of the changes or alterations to the Project listed herein have been required in, or incorporated into, the project to mitigate or avoid the potentially significant environmental impacts listed herein, as identified in the FEIR, that these mitigation measures will be effective to reduce or avoid the potentially significant impacts as described in the FEIR, and these mitigation measures are feasible to implement and are within the responsibility and jurisdiction of the City and County of San Francisco to implement or enforce.

The 690 Stanyan Street Project with mitigation, would reduce all impacts to a less than significant level. Consequently the Planning Commission finds that this project will not have a significant effect on the environment.

Accordingly, pursuant to Section 21067 of CEQA and Sections 15040, 15081, and 15082 of the State CEQA Guidelines, the Commission finds that the proposed project would NOT result in an impact that cannot be avoided if the proposed project is implemented.

#### IV. CONCLUSION

The environmental effects of the 690 Stanyan Street Modified Project are analyzed in sufficient detail to allow the FEIR and its addendum to fully satisfy CEQA. All potential significant impacts would be reduced to a less than significant level with the implementation of the mitigation measures discussed in section IV above and included in the FEIR and the attached Mitigation Monitoring and Reporting Program (EXHIBIT 1).

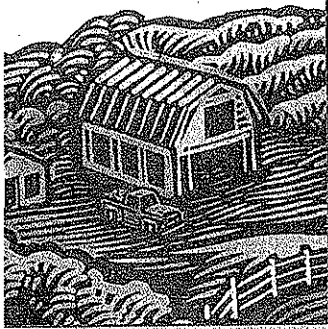


Motion No. 18024  
Hearing Date: January 28, 2010

CASE NO. 2009.1103C  
690 Stanyan Street

## EXHIBIT 1

### MITIGATION AND MONITORING REPORTING PROGRAM FOR THE 690 STANYAN STREET MODIFIED PROJECT



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March 2, 2010

Ms. Angela Calvillo  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco, CA 94102

Re: Public Convenience and Necessity

Dear Ms. Calvillo:

Whole Foods Market California, Inc. dba Whole Foods Market, has applied with the Department of Alcoholic Beverage Control (ABC) to transfer a Type 20, Off-sale Beer & Wine license to our new store in the Haight-Ashbury District of San Francisco. Before ABC will issue the license, they require that we secure a Letter of Public Convenience and Necessity from the San Francisco Board of Supervisors. The following facts are required for this application:

Premise address: 690 Stanyan St.  
San Francisco, CA 94117

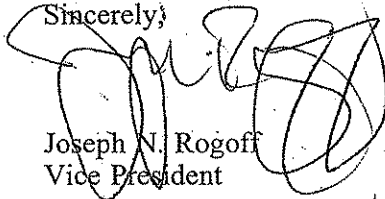
Mailing address: 5980 Horton Street, Suite 200  
Emeryville, CA 94608

Operational hours: 8:00 AM to 10:00 PM, seven days a week

Whole Foods Market offers a wide range of natural foods and an extensive selection of fine wines and beers from around the world. We believe that offering wine and beer for sale at this new location will enhance our customers' shopping experience and best serve our local clientele. Therefore, we feel that the issuance of the Type 20 license at this location will provide a public convenience.

If any questions arise from this application, please contact one of our licensing consultants, Jay McPherson or Dyana Nedra of CSA, at 800-400-1353.

Sincerely,

  
Joseph N. Rogoff  
Vice President